

REMARKS

The April 14, 2009 Office Action regarding the above-identified application has been carefully considered; and the amendments above together with the remarks that follow are presented in a bona fide effort to respond thereto and address all issues raised in that Action.

To further define over the art and to reduce issues, claim recitations to the effect that the functional groupings displayed on the first area of the first screen specifically include call messaging, contacts list, obtaining device services, recent calls, and settings and tools have been moved up from claims 48, 62 and 76 into claims 46, 60 and 74. Claims 48, 62 and 76 have been cancelled. Since the recitations added to independent claims 46, 60 and 74 previously appeared in other claims, the amendments should not raise any concern with regard to new matter and should not raise any issue requiring further search or consideration. It is believed that the amendments place the case in condition for allowance, but if not, then at least the amendments should reduce issues for purposes of Appeal. Applicants therefore submit that the claim amendments presented above should be entered even at this stage of prosecution, under rule 37 C.F.R. § 1.116.

For reasons discussed below, it is believed that this amended application is in condition for allowance. Prompt favorable reconsideration of this amended application is requested.

The Office Action rejected claims 46-87 under 35 U.S.C. § 103(a) as unpatentable over US publication 2004/0051741 to Venturino in combination with US patent no. 7,152,213 to Pu et al. (hereinafter Pu) further in view of an alleged admission of prior art on page 2 of the specification of this application itself (referred to as "AAPA" in the Action). Applicants respectfully traverse. In that regard, it is submitted that Venturino taken in view of with Pu and

the alleged “AAPA” would not result in a combination that actually satisfies all of the requirements of Applicants’ pending independent claims (claims 46, 60 and 74).

Venturino discloses a tabbed menu arrangement for a display of a digital camera or other similar device. The rejection cites to Pu to allege that dynamic function assignment and display would have been obvious. Pu suggests presentation of a standard telephone keypad on a display with the valid data entry selections dynamically assigned to the keys on the keypad (see column 2, lines 58-60). With regard to claims such as 48, 62 and 76, the rejection points to general discussions of camera functions in Venturino, to allegedly meet claim requirements regarding functional groupings that specifically include call messaging, contacts list, obtaining device services, recent calls, and settings and tools.

Applicants respectfully submit that each of the independent claims recites a number of limitations that distinguish over the disclosures of the art applied in the rejection and therefore render the claims patentable.

First, each of independent claims 46, 60 and 74 now recites a first screen display that includes a first level menu providing functional groupings for user selection. In these claims, the functional groupings displayed in the first level menu include: call messaging, contacts list, obtaining device services, recent calls, and settings and tools. Each independent claim further recites display of a second level menu of choices in the first screen, for user selection from within a selected one of the functional groupings of that first level menu, that is to say selection from the displayed groupings that include call messaging, contacts list, obtaining device services, recent calls, and settings and tools.

To purportedly meet the specific functional groupings requirement, the rejection relies on general discussions of camera functions in Venturino, citing Venturino claim 5 and paragraph

0078. Pu and AAPA apparently are not relevant on this point. Claim 5 of Venturino is specifically a camera claim. Paragraph 0078 describes selection of an icon and menu display and refers to menu tab items grouped according to functions, and then the paragraph refers to a subsequent listing of the groups/functions. The subsequent listing (paragraphs 0079-0114) apparently relates to functions of the disclosed camera and does not specifically include “call messaging, contacts list, obtaining device services, recent calls, and settings and tools,” as positively required by Applicants pending independent claims. Since the general discussions of camera functions in Venturino do not literally or inherently meet the actual claim requirements that the functional groupings include call messaging, contacts list, obtaining device services, recent calls, and settings and tools, the combination of Venturino, Pu and the alleged AAPA would not meet the claim requirements regarding those groupings of functions for a cellularly communicative device.

As another distinction, each of Applicants’ independent claims 46, 60 and 74 recites that the dynamically assignable function key is “not one of the alpha or numeric keys of the keypad.” An example of such an arrangement is shown in application FIG. 1b, where various functions may be dynamically assigned to keys 125, and those keys 125 are separate and distinct from the keys 135 used for entry of alpha or numeric information. Each of these independent claims also specifies displaying a second screen responsive to a user acceptance of the selected one of the choices. The displayed second screen includes an area containing information relating to the selected choice as well as a key assignment area. The key assignment area displays a function of the cellularly communicative device that is associated with the selected choice, that is to say selected as a result of the user’s acceptance of the selected one of the choices. The key assignment area displays the function as being dynamically assigned to the function key, that is

to say being dynamically assigned to the function key that is “not one of the alpha or numeric keys of the keypad.” Each independent claim also requires that the device performs that dynamically assigned function associated with the selected choice, upon user activation of that separate function key during the display of the second screen.

The Examiner concedes that the combination of Venturino and Pu does not meet the independent claim recitations requiring that the dynamically assignable function key is a key that is not one of the alpha or numeric keys of the keypad. Instead, the latest rejection points to the background section the specification of this application itself (citing page 2, second paragraph, lines 12-13, in the specification of this application as AAPA) as an alleged admission of prior art in which a dynamically assignable function key is a key that is not one of the alpha or numeric keys of the keypad. It is respectfully submitted that the reliance on Applicants’ specification is an error, as the background of this application does not provide the alleged teaching on point. The background discussion on application pages 1 and 2 actually relates to function keys having fixed or static assignments, such as “select” or “enter” keys. Although separate from the alpha or numeric keys of the keypad, such a fixed function key would not meet the claim requirements for a dynamically assignable function key. As such, the alleged AAPA would not lead one of skill in the art to provide a dynamically assignable function key that is “not one of the alpha or numeric keys of the keypad,” as claimed, but instead would lead one of skill in the art to provide a fixed function type key.

Hence, Venturino, Pu and the alleged AAPA also would not teach one of skill in the art to provide a dynamically assignable function key that is “not one of the alpha or numeric keys of the keypad,” as recited in the independent claims.

In view of the multiple distinctions of the independent claims over Venturino, Pu and the alleged AAPA, independent claims 46, 60 and 74 as well as the claims that depend therefrom should be patentable over the applied art.

Upon entry of the above claim amendments, claims 46, 47, 49-61, 63-75 and 77-87 remain active in this application, all of which should be patentable over the art applied in the Action. Applicants therefore submit that all of the claims are in condition for allowance. Accordingly, this case should now be ready to pass to issue; and Applicants respectfully request a prompt favorable reconsideration of this matter.

It is believed that this response addresses all issues raised in the April 14, 2009 Office Action. However, if any further issue should arise that may be addressed in an interview or by an Examiner's amendment, it is requested that the Examiner telephone Applicants' representative at the number shown below.

To the extent necessary, if any, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

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